

**UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

In re:	:	Chapter 11
	:	
THE ROOKWOOD CORPORATION	:	Case No. 11-12756
	:	
Debtor.	:	Judge Jeffery P. Hopkins

**MOTION TO STRIKE AS UNTIMELY FILED TINC, LLC'S RESPONSE TO
UNITED STATES TRUSTEE'S MOTION REQUESTING ORDER DIRECTING
THE APPOINTMENT OF A TRUSTEE PURSUANT TO § 1104 OR
CONVERTING/DISMISSING THE CASE PURSUANT TO § 1112**

Now comes the Debtor, and hereby moves the Court for an order striking as untimely filed the Response of TINC, LLC to the United States Trustee's Motion Requesting an Order Directing the Appointment of a Trustee Pursuant to § 1104 or Converting/Dismissing the Case Pursuant to § 1112. The Debtor states the following in support of its Motion:

1. On May 4, 2011, an involuntary petition was filed in this case. The Order for Relief was entered on May 31, 2011.
2. This is a core proceeding under 28 U.S.C. § 157(b)(2)(A).
3. This Court has jurisdiction of this matter under 28 U.S.C. § 1334 and 157(a).
4. Venue is proper in this Court under 28 U.S.C. §§ 1408 and 1409.

RELIEF REQUESTED

5. The Response of TINC, LLC to the United States Trustee's Motion is untimely filed and should be stricken. The Court's June 16, 2011 Order Shortening Time to Respond to Motion to Appoint Chapter 11 Trustee and Setting Expedited Hearing (the

“Court’s June 16, 2011 Order”) [Doc # 16] established a hearing date and time of July 1, 2011 at 10:00 a.m. on the United States Trustee’s Motion. The Court’s June 16, 2011 Order also set a deadline of June 29, 2011 at 5:00 p.m. to respond to the United States Trustee’s Motion.

6. The Debtor timely filed its Response to the Trustee’s Motion. TINC, LLC, on the other hand, filed its untimely Response on June 30, 2011 at 5:01 p.m., 24 hours after the deadline. TINC, LLC provided no explanation for its late filing nor did it request a continuance of the deadline. It is unfair to allow TINC, LLC’s filing to remain of record in part because TINC, LLC not only had an extra day to prepare its Response, but because TINC, LLC also had the opportunity to review the Debtor’s Response before filing its own. TINC, LLC’s Response, in fact, attempts to address arguments made by the Debtor in its Response. The Court’s June 16, 2011 Order provided for the contemporaneous filing of responses to the United States Trustee’s Motion, rather than allowing one party to obtain an advantage over the other by filing a response on a later date.

NO MEMORANDUM OF LAW

7. This Motion does not present any novel issues of law, and accordingly the requirement for filing a Memorandum under L.B.R. 9013-1(a) should be waived.

WHEREFORE, for the reasons set forth herein and for good cause shown, the Debtor respectfully requests that the Court enter an order striking as untimely filed TINC, LLC’s Response to the United States Trustee’s Requesting an Order Directing the Appointment of a Trustee Pursuant to § 1104 or Converting/Dismissing the Case Pursuant to § 1112.

Respectfully submitted,

/s/ Reuel D. Ash

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CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing Motion to Strike as Untimely Filed TINC, LLC's Response to the United States Trustee's Motion Requesting Order Directing the Appointment of a Trustee Pursuant to § 1104 or Converting/Dismissing the Case Pursuant to § 1112 has been served this 30th day of June, 2011 via CM/ECF Noticing on Timothy J. Hurley, Counsel for TINC LLC and Martin Wade, hurley@taftlaw.com; and Monica V. Kindt, Assistant U.S. Trustee, monica.kindt@usdoj.gov.

/s/ Reuel D. Ash